

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

JANET SPENCER AND SARA POPENHAGEN)
)
)
Plaintiffs,)
) **Case No. 1:19-cv-07404**
v.)
THE UNIVERSITY OF CHICAGO, ET AL.,)
)
Defendants.)

THE UNIVERSITY OF CHICAGO'S 12(b)(6) MOTION TO DISMISS

Defendant, the University of Chicago (“the University”), by and through its attorneys, bring this Motion to Dismiss Counts I-V of Plaintiffs Janet Spencer’s (“Spencer”) and Sara Popenhagen’s (“Popenhagen”) (together, “Plaintiffs”) Complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure. In support of this motion, the University submits a Memorandum of Law filed concurrently herewith, and respectfully states as follows:

1. Plaintiffs filed the Complaint on November 8, 2019, alleging claims of sex discrimination and retaliation pursuant to the Civil Rights Act of 1964 (“Title VII”) (Counts I and II), and sex discrimination and retaliation pursuant to the Illinois Human Rights Act (“IHRA”) (Counts III and IV). Spencer also alleges a violation of the Equal Pay Act (“EPA”) (Count V).

2. As explained in greater detail in the accompanying Memorandum of Law, the University moves to dismiss Counts I-V of the Complaint pursuant to Rule 12(b)(6) for failure to state a claim upon which relief can be granted. F. R. Civ. P. 12(b)(6).

3. Specifically, neither Spencer nor Popenhagen has alleged facts that would

plausibly suggest they were subjected to timely, actionable employment actions by the University, as required to state claims for sex discrimination and retaliation under both Title VII and the IHRA. *Ross v. University of Chicago*, No. 18-CV-4200, 2018 WL 6448464, at *6 and *8 (N.D. Ill. Dec. 10, 2018) (dismissing plaintiff's Title VII and IHRA discrimination and retaliation claims where he failed to allege an actionable adverse employment action). Thus, the Court should dismiss Counts I-IV of Plaintiffs' Complaint.

4. Nor has Spencer alleged that any of her male coworkers were paid more than she was, nor that they performed substantially similar work, both of which are required to state a *prima facie* case for a violation of the EPA. *See Parks v. Speedy Title & Appraisal Review Services*, 318 F.Supp.3d 1053, 1069-70 (N.D. Ill. 2018) (dismissing EPA claim for failure to allege whether male coworkers were performing equal work under similar conditions). Thus, this Court should also dismiss Count V of the Complaint.

5. The basis for this motion is set forth more fully in the attached Memorandum of Law, filed contemporaneously with this Motion.

WHEREFORE, the University respectfully requests that the Court grant its Motion to Dismiss Counts I-V of Plaintiffs' Complaint, and grant any other such relief as justice requires.

Dated: January 13, 2020

Respectfully submitted,

By: s/ Jenny R. Goltz

One of the attorneys for the University

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CERTIFICATE OF SERVICE

The undersigned attorney certifies that on January 13, 2020, a copy of **the University's Rule 12(b)(6) Motion to Dismiss** was filed electronically with the Clerk of the Court using the CM/ECF system. The parties may access this filing through the Court's electronic filing system, and notice of this filing will be sent to the following parties by operation of the court's electronic filing system.

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